

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

MARA M. JOFFE

PLAINTIFF

v.

CIVIL ACTION NO. 1:17-CV-259-KS-MTP

BRANDY NETHERTON

DEFENDANT

ORDER

This matter is before the Court on the Motion to Strike and/or Limit Plaintiff's Expert Designation ("Motion to Strike") [29] filed by Defendant Brandy Netherton ("Defendant"). Defendant argues that Plaintiff Mara M. Joffe ("Plaintiff") should be excluded from offering the expert testimony of her treating physicians because they did not provide written expert reports. Defendant, however, is mistaken as to what type of disclosure is required from treating physicians.

Local Uniform Civil Rule 26(a)(2)(D) holds that, for physicians designated as experts but not retained specifically to provide expert testify, such as treating physicians, "[n]o written report is required from such witnesses, but the party must disclose the subject matter on which the witness is expected to present evidence under FED.R.EVID. 702, 703 or 705, and a summary of the facts and opinions to which the witness is expected to testify." The purpose of Local Rule 26(a)(2)(D) is "to relieve busy treating physicians of the onerous task" of complying with disclosure requirements of Federal Rule of Civil Procedure 26 while still clarifying that they did need to be designated as experts. *Robbins v. Ryan's Family Steak Houses East, Inc.*, 223 F.R.D. 448, 453 (S.D. Miss. 2004).

Plaintiff's designation of her treating physicians as experts included the medical records they prepared in treating, which serves as both the subject matter of their testimony and the facts

and opinions to which they are expected to testify. Therefore, the Court finds that Plaintiff has met the requirements of Local Rule 26(a)(2)(D), and the Motion to Strike is hereby **denied**.

SO ORDERED AND ADJUDGED, on this, the 16th day of July, 2018.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE